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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. **2013-46**

13 **CHRISTINE NAGUIAT MERCADO**
14 **914 Hibistus Way**
Placentia, CA 92870

A C C U S A T I O N

15 **Registered Nurse License No. 742154**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about January 6, 2009, the Board of Registered Nursing issued Registered
24 Nurse License Number 742154 to Christine Naguiat Mercado (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 will expire on October 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

....

COSTS

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **CAUSE FOR DISCIPLINE**

2 **(Out-of-State Discipline Against a Health Care Professional License)**

3 8. Respondent has subjected her license to disciplinary action under section 2761,
4 subdivision (a)(4) of the Code for unprofessional conduct in that Respondent was disciplined by
5 the State of Florida Board of Nursing. The circumstances are as follows:

6 a. On or about December 14, 2011, in an administrative matter entitled *State of*
7 *Florida Department of Health v. Christine Naguiat Mercado, R.N.*, case number 2011-10806, an
8 administrative complaint was filed. The complaint alleged that on or about December 20, 2010, a
9 64-year-old female patient underwent exploratory laparotomy at the University of Miami Hospital
10 where Respondent was employed. Respondent was assigned as the circulator nurse for the
11 procedure. The circulator nurse is responsible for conducting counts of the sponges, sharps, and
12 instruments used throughout a procedure. Respondent conducted the final count of the sponges,
13 sharps, and instruments used during the surgery. On or about December 30, 2010, the patient
14 underwent a radiographic study and it was discovered that a laparotomy pack was retained inside
15 the patient. The patient underwent surgery to remove the laparotomy pack. The administrative
16 complaint alleged that Respondent violated Florida Statutes section 464.018, subdivision (1)(n) in
17 that she failed to meet minimal standards of acceptable and prevailing nursing practice, including
18 engaging in acts for which the licensee is not qualified by training or experience.

19 b. As a result of the administrative complaint, Respondent signed a settlement
20 agreement admitting that the stipulated facts, if proven true, constituted violations of laws as
21 alleged in the administrative complaint. On or about April 17, 2012, the Florida Board of
22 Nursing issued its Final Order adopting the settlement agreement effective April 18, 2012,
23 wherein Respondent's registered nurse license was reprimanded. Respondent was ordered to pay
24 the Florida Board of Nursing costs in the amount of \$1,335.03, and she was required to
25 successfully complete courses in Documentation and Operating Room Nurse Specialty.
26 Respondent was admonished that a violation of any state or federal law, rule, or regulation
27 relating to the practice or the ability to practice nursing would constitute grounds for violation of
28 the Order adopting the settlement agreement.

1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 742154, issued to
5 Christine Naguiat Mercado;

6 2. Ordering Christine Naguiat Mercado to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: July 17, 2012

13 for Stacie Bern
14 LOUISE R. BAILEY, M.ED., RN
15 Interim Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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